

STATE OF MICHIGAN  
COURT OF APPEALS

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DEANNE QUINN,

Plaintiff-Appellant,

v

PATRICK QUINN, MICHAEL QUINN, and  
TRUST OF LOUISE ERVIN, a/k/a LOUISE A.  
CHISHOLM,

Defendants-Appellees.

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UNPUBLISHED

August 30, 2005

No. 253714

Wayne Circuit Court

LC No. 03-308368-DM

Before: Saad, P.J., and Hoekstra and Markey, JJ.

PER CURIAM.

Plaintiff appeals by right from an order of the trial court setting aside a default judgment and dismissing with prejudice her quiet title action against defendants. Plaintiff commenced this action seeking title to, or the partition and sale of, a piece of real property passed by trust to defendants Patrick and Michael Quinn. Patrick Quinn is plaintiff's former husband. Plaintiff's claim is based on Patrick's arrearages to her for past due child support. We affirm.

Plaintiff first asserts that the trial court erred in setting aside the default judgments entered against defendants where they failed to show good cause or submit affidavits of meritorious defense in accord with MCR 2.603(D)(1). We disagree. A trial court's decision on a motion to set aside a default judgment is reviewed for an abuse of discretion. *Amco Builders & Developers, Inc v Team Ace Joint Venture*, 469 Mich 90, 94; 666 NW2d 623 (2003).

We reject Michael Quinn's assertion that the trial court lacked personal jurisdiction over him. The proceedings below establish that Michael was aware of the suit filed against him regardless of whether the order for alternate service was strictly complied with. The rules for service of process "are not intended to limit or expand the jurisdiction given the Michigan courts over a defendant." MCR 2.105(J)(1). Hence, strict compliance with the rules is not required. MCR 2.105(J)(3); *Alycekay Co v Hasko Constr Co, Inc*, 180 Mich App 502, 505-506; 448 NW2d 43 (1989). Further, this Court has held that service of process rules are intended to satisfy the due process requirement that a defendant be informed of the pendency of an action by the best means available, by methods reasonably calculated to give a defendant actual notice of the proceeding and an opportunity to be heard and to present objections or defenses. MCR 2.105(J)(1); *Bunner v Blow-Rite Insulation Co*, 162 Mich App 669, 673-674; 413 NW2d 474 (1987). Thus, a trial court's refusal to set aside a default judgment will not be reversed based on

a failure to strictly comply with the court rules concerning service of process if the party in default was timely informed of the action. *Alycekay, supra* at 506. Accordingly, we conclude that because the trial court had personal jurisdiction over Michael, the default judgment entered against him could not be set aside on this basis.

Plaintiff also correctly argues that generally a motion to set aside the entry of a default judgment should be granted only if good cause is shown and an affidavit of facts showing a meritorious defense is filed. MCR 2.603(D)(1). But MCR 2.603(D)(3) permits a trial court to set aside a judgment in accord with MCR 2.612. *Alken-Ziegler, Inc v Waterbury Headers Corp*, 461 Mich 219, 234 n 7; 600 NW2d 638 (1999). Because MCR 2.612(C)(1)(f) provided a basis for the trial court's decision, we conclude the trial court did not abuse its discretion in setting aside the default judgment here.

As support for this conclusion, we first note that the trial court ordered Patrick to pay plaintiff \$40,000, which he complied with. This figure exceeded by \$10,000 the \$30,000 plaintiff asserted in her complaint she was owed in past due child support. We agree with the trial court that awarding plaintiff the property in fee in addition to the \$40,000 would have resulted in a windfall for plaintiff. The fact that it was Patrick, not Michael, who was indebted to plaintiff also supports the conclusion that Michael and the trust were entitled to relief from the default judgment. We further note that by its plain language MCL 552.625 only permits a court to render judgment against the payer "for the amount of unpaid support." MCL 552.625. Thus, a court may require a payer to provide security for future payments if he has ever been in default, *Milligan v Milligan*, 197 Mich App 665, 667; 496 NW2d 394 (1992), but may only render judgment against a payer, and order execution thereon, to the extent of unpaid support. Accordingly, the trial court could not have quieted title in plaintiff because the value of the house far exceeded the amount of unpaid support.

Therefore, we conclude that trial court did not abuse its discretion in setting aside the default judgment. Although the trial court might have ordered that the property be sold and Patrick's share in the property held in escrow to secure future child support payments, the court chose not to do this. Instead, based on the evidence presented, the court concluded the support arrearages were sufficiently current so that an escrow account was not needed. We cannot conclude this decision was an abuse of discretion.

Plaintiff next asserts that the trial court erred in dismissing her cause of action. We disagree. Plaintiff sought equitable relief in her complaint. The trial court based its decision that dismissal was appropriate on the fact that plaintiff had received \$40,000 from Patrick, which, the trial court concluded, satisfied her initial claim and she was not entitled to the equitable relief she sought. The record reflects the parties disputed the amount of child support that may have accrued since plaintiff filed her complaint. The trial court properly deferred that issue to further administrative proceedings before the friend of court or show cause hearings before the circuit court.

We affirm the judgment of the trial court.

/s/ Henry William Saad  
/s/ Joel P. Hoekstra